



The Association of State Wetland Managers, Inc.

"Dedicated to the Protection and Restoration of the Nation's Wetlands"

April 5, 2010

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Council on Environmental Quality
ATTN: Terry Breyman
722 Jackson Place, N.W.
Washington, DC 20503

Dear Mr. Breyman:

RE: Proposed National Objectives, Principles and Standards for Water and Related Resources Implementation Studies, December 3, 2009

On behalf of The Association of State Wetland Managers, Inc., I would like to thank you for the opportunity to comment on the Proposed Principles and Standards. The current Principles and Guidelines have provided direction to the U.S. Army Corps of Engineers and other water development agencies for many years. As proposed, the revised document will apply to a much larger number of agencies and water resources projects, including restoration projects for wetlands, estuaries and other waters throughout the nation. Therefore this guidance will have a much broader impact on states and state water, wetlands and wildlife programs.

We would like to encourage the Council on Environmental Quality to foster a broader dialogue with state environmental protection and natural resources agencies as it considers revisions to the draft Principles and Standards. States implement most of the provisions of the Clean Water Act. In most states waters of the state include many waters not subject to federal jurisdiction such as groundwater and isolated wetlands. Water resources are essential to each state's environmental and economic well-being and they must be managed wisely not only for the present but for future generations. We look forward to providing additional ideas and comments in the coming months.

Our comments are divided into three general categories:

- 1) Guidance ASWM supports
- 2) Guidance that is missing
- 3) Areas of uncertainty and concern

Guidance ASWM Supports

We strongly support the inclusion of the overall planning principles in the draft document, specifically:

- Emphasis on protecting and restoring natural ecosystems
- Avoidance of use of floodplains and other ecologically valuable areas
- Using a watershed approach and ecosystem-based management
- Use of best available science

- Requiring mitigation
- Including climate change considerations
- Incorporating public safety considerations
- Supporting environmental justice for low income, tribal and minority communities
- Encouraging collaboration.

We also strongly support:

- The requirement to formulate and consider nonstructural alternatives
- The use of the best science as well as peer review and full transparency to ensure that projects undergo a more rigorous study process
- The inclusion of language in Chapter II – Planning Standards 1. B. which states the Principals and Standards to not apply to grants, technical assistance and other assistance to non-Federal entities
- The inclusion of requirements to calculate and communicate residual risk.

Guidance that is missing

The Principles and Standards should require that projects comply with state water quality and other applicable standards. As stated earlier, most states have statutes and regulations for protection of state waters, wildlife and other resources that protect natural resources that are not protected under federal statutes or regulations. Federally-funded projects should be required to provide the same level of environmental protection to state resources as state and local agencies, companies and individuals. Otherwise federally-funded projects may impair waters of the state and/or degrade other natural resources important to the environmental and economic health of the state and its citizens. It would be logical to include this requirement in Section 2. Overview of Planning Process, part G.

At the federal level the Clean Water Act requires all practicable steps should be taken to avoid adverse impacts to rivers, streams, wetlands and other aquatic resources. In the past the majority of federal water projects have not utilized nonstructural or restoration approaches even though these can be highly effective in meeting the project purpose while simultaneously avoiding adverse impacts and even improving the health of the Nation's waters and the communities that depend on them. The new Principles and Standards should not support projects that degrade water resources and therefore should strongly support nonstructural or restoration projects wherever possible in compliance with the goals of the Clean Water Act. Absent such a requirement, the states will continue to have to expend significant resources bringing federal agencies into compliance with the Clean Water Act as well as state water quality standards. Establishing clear requirements and planning criteria to ensure avoidance of adverse environmental impacts wherever possible will be critical for the new Principles and Standards to fundamentally improve federal water resources planning.

The analysis of residual risk in Section J should include threats to property, infrastructure and critical facilities. Further the calculation of residual risk should be consistent with WRDA 2007 § 2033 requirements for flood damage reduction benefit/cost analyses including calculation of any upstream or downstream impacts of the proposed project.

There has been considerable public debate about the various federal programs that provide direct or indirect incentives that support developing floodplains and coastal areas. Development in floodplains and coastal areas has significantly increased the risks to public safety and property. CEQ should provide a Report To Congress that provides a programmatic review of all federal programs including grant, insurance, regulatory, easement and cost-share programs that have impacts on flood risk management and economic activity in flood-prone areas, including those under FEMA, EPA, DOD, DOI, USDA, DOT/FHA and HUD.

Areas of Concern

The current draft could be interpreted to require all projects to promote sustainable economic development including restoration projects. Previously restoration projects have not been required to support and promote economic development. A requirement to support economic development may discount and even eliminate successful, proven restoration strategies from being eligible for funding.

Water and related land resource restoration activities should continue to focus on resource protection, restoration and enhancement without having to evaluate structural alternatives, or conducting additional economic development analyses. Section 2D in B. Overview of Planning should be reworded to clarify that activities that are primarily nonstructural, such as ecosystem restoration, do not need to evaluate structural alternatives.

In addition, the new requirement for a cost-benefit analysis for restoration projects is likely to be very challenging. Cost-benefit analysis comparing structural and nonstructural approaches have been difficult to conduct in the past. It is not clear how monetary and nonmonetary costs, particularly when considered project by project, would be compared. Many times the benefits of restoration projects accrue over a broader landscape and a longer timeframe than considered in traditional cost-benefit analyses. This is because many structural projects have a fairly short life span (fifty years or less) whereas restoration projects may not. Restoration projects should focus on improving the quality and quantity of natural resources and ecosystems and not on economic development.

The planning standards need to clarify how non-monetized subcategories will be addressed to avoid misinterpretation and misapplication. Past experience dating back to the Water Resources Council has demonstrated that non-monetized services will be ignored by economists who have little or no experience integrating ecological services into cost-benefit analyses.

The draft standards do not provide guidance on how to integrate climate change and particularly adaptation to future projected changes in climate for a water project. Project selection should incorporate factors such as sea level rise, increased flood or drought events and other changes in climate that are likely to affect the project's cost and long-term success.

The draft Principles and Standards do not provide thresholds for triggering their application to a water project. Is a specific monetary amount the trigger? Is the number of acres or stream miles affected? For example it seems unlikely that Wetlands Reserve Program easements or Partners for Wildlife cost-share agreements would require Principles and Standards analyses.

Do the Principles and Standards apply to maintenance projects, revisions to existing restoration and constructed water development projects or only new projects? On the restoration front there are many activities conducted by the U.S. Environmental Protection Agency (EPA) and the National Oceanic and Atmospheric Administration (NOAA) that have never been subject to the Principles and Guidelines. Which programs will be affected? The EPA State Revolving Fund (SRF)? Chesapeake Bay Restoration? Restoration of habitat for salmon and other endangered species? Proposed dam removals?

The current draft does not adequately support an analysis strategy consistent with a watershed approach. Federal funds should be directed first to projects that provide positive cumulative impacts and multiple services as opposed to a single service. In the past the project-by-project single service approach has encouraged a reliance on structural solutions that have had substantial negative impacts on natural resources, which were important to maintaining natural resources and protecting public health and safety. This means there has been little or no incentive to identify projects that provide multiple services. ASWM supports revising the draft Principles and Standards to provide clearer support for watershed analyses and multiple service projects.

Finally, there is a lack of consistency in the use of terminology throughout the document. The terms principles, standards, guidelines and procedures are used interchangeably, which is likely to lead to confusion if not addressed before the document is finalized.

The current federal water resource planning process can be lengthy and expensive. There may be concern that the proposed changes may make it take even longer to complete a project. But many of these projects drag on because the process does not lead to resolution or even a consideration of significant issues affecting the environment, human health and property. ASWM believes that the proposed Principles and Standards provide an important opportunity to create a more focused and streamlined approach by giving clear direction on the hierarchy to follow in identifying projects, setting appropriate thresholds, conducting cost-benefit analyses that incorporate ecological services, requiring compliance with applicable laws and supporting a transparent process that uses the best available science.

Thank you for the opportunity to comment. If you have any questions or require further information please contact me at (207) 892-3399 or jeanne.christie@aswm.org

Sincerely,

A handwritten signature in black ink that reads "Jeanne Christie". The signature is written in a cursive, flowing style.

Jeanne Christie
Executive Director